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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

BILLY EUGENE CHILDERS, JR.,

Defendant and Appellant.

F072861

(Super. Ct. No. F12901593)

OPINION

THE COURT*

APPEAL from an order of the Superior Court of Fresno County. Jonathan M. Skiles, Judge.

Jin H. Kim, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Levy, Acting P.J., Gomes, J., and Peña, J.

Appellant Billy Eugene Childers, Jr. filed a petition for resentencing pursuant to the provisions of Proposition 47. (Pen. Code, § 1170.18.)¹ The trial court denied the petition finding that appellant was ineligible under the terms of the statute. We agree and affirm the trial court's order.

On August 7, 2012, appellant was convicted of violating section 496d, subdivision (a) receiving a stolen vehicle. On March 11, 2015, appellant petitioned to have this conviction reduced to a misdemeanor pursuant to Proposition 47 (§ 1170.18, subds. (b) and (d)).

On October 14, 2015, the court found appellant ineligible for relief as his conviction for violation of section 496d, subdivision (a) does not qualify for relief under section 1170.18. On December 9, 2015, appellant filed a timely notice of appeal. Appellate counsel filed a brief asserting counsel could not identify any arguable issues in the case. (*People v. Wende* (1979) 25 Cal.3d 436.) By a letter dated February 9, 2016, we invited appellant to inform us of any issues he would like this court to address. Appellant did not respond.

On November 4, 2014, California voters enacted Proposition 47, and it went into effect the next day. (*People v. Rivera* (2015) 233 Cal.App.4th 1085, 1089.) “Proposition 47 makes certain drug- and theft-related offenses misdemeanors, unless the offenses were committed by certain ineligible defendants. These offenses had previously been designated as either felonies or wobblers (crimes that can be punished as either felonies or misdemeanors).” (*Id.* at p. 1091.)

“Proposition 47 also created a new resentencing provision: section 1170.18. Under section 1170.18, a person ‘currently serving’ a felony sentence for an offense that is now a misdemeanor under Proposition 47, may petition for a recall of that sentence and

¹ All statutory references are to the Penal Code.

request resentencing in accordance with the statutes that were added or amended by Proposition 47. (§ 1170.18, subd. (a).)” (*People v. Rivera, supra*, 233 Cal.App.4th at p. 1092.)

Receiving a stolen vehicle (§ 496d, subd. (a)) is not among the offenses listed in section 1170.18. Thus, defendant is not eligible for relief under Proposition 47. The trial court properly denied his petition for resentencing.

We see no other arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The order denying defendant’s petition for resentencing pursuant to Proposition 47 is affirmed.